

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**MICHAEL BACZKOWSKI,**

**Petitioner,**

**v.**

**9:04-CV-1307  
(FJS/DRH)**

**JAMES CONWAY,**

**Respondent.**

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**APPEARANCES**

**MICHAEL BACZKOWSKI  
03-A-2214**

Attica Correctional Facility  
Exchange Street  
Box 149  
Attica, New York 14011  
Petitioner *pro se*

**SCULLIN, Chief Judge**

**ORDER**

The Clerk of the Court has sent Petitioner Michael Baczkowski's second amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 to the Court for its review. *See* Dkt. No. 12. Petitioner filed this second amended petition in accordance with this Court's November 24, 2004 and March 24, 2005 Orders. *See* Dkt. Nos. 4, 9.

In both its November 24, 2004 Order and its March 24, 2005 Order, the Court directed Petitioner to file an amended petition that demonstrated that he had exhausted his state-court remedies and that he had timely filed this action. The Court further advised Petitioner that, until he presented the Court with sufficient information to show that he had exhausted his claims in

state court, this Court could not permit his petition to proceed. Finally, the Court advised Petitioner that his failure to comply with the Court's Orders would result in dismissal of this action.

A review of Petitioner's second amended petition demonstrates that it does not comply with the instructions in either of the Court's previous Orders. In fact, it appears from the second amended petition that Petitioner did not exhaust his state-court remedies. Moreover, there is no indication that Petitioner took any appeals from, or brought any post-conviction challenges to, his conviction and sentence. Finally, it is clear that, absent Petitioner having filed such state-court challenges, this action is time-barred.

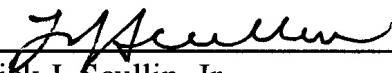
Accordingly, based upon the foregoing, the Court hereby

**ORDERS** that this action is **DISMISSED WITH PREJUDICE**; and the Court further **CERTIFIES** that, pursuant to 28 U.S.C. § 1915(a)(3), any appeal that Petitioner takes from this decision would not be taken in good faith; and the Court further

**ORDERS** that the Clerk of the Court serve a copy of this Order on Petitioner by certified mail.

**IT IS SO ORDERED.**

Dated: May 10, 2005  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Chief United States District Court Judge